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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,440	07/25/2003	Thomas Seth Belcher	03-0431.01	5371

21491 7590 02/11/2005
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EXAMINER

MENDIRATTA, VISHU K

ART UNIT PAPER NUMBER

3711

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,440

Applicant(s)

BELCHER ET AL. EP

Examiner

Vishu K Mendiratta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. Claims 1-7,9,11-17,19 rejected under 35 U.S.C. 102(b) as being anticipated by Bassett (3,057,624).

Bassett teaches a gaming plane (10) having plurality of tiles (Fig.1), tiles having at least three edges comprising means for interconnecting (Fig.5) in centripetal and centrifugal shapes, tiles made out of plastic material (2:2-5) are well known to be compatible with dry-erase markers, and the board providing a perception of a Cartesian grid (Fig.1). The newly added limitation "substantially non-porous surface" is inherently disclosed due to use of the plastic material in Bassett reference.

Plastic is a well known substantially non-porous material, commonly known and used in making game boards, and used for playing games by marking with dry-erase markers.
Bassett clearly teaches overlaying plastic cladding (30) upon a substrate (28).

Claim Rejections - 35 USC § 103

2. Claims 1-7,9,11-17,19 rejected under 35 U.S.C. 103(a) as being unpatentable over Bassett in view of Ward (4060246).

Bassett teaches a gaming plane (10) having plurality of tiles (Fig.1), tiles having at least three edges comprising means for interconnecting (Fig.5) in centripetal and centrifugal shapes, tiles made out of plastic material (2:2-5) are well known to be compatible with dry-erase markers, and the board providing a perception of a Cartesian grid (Fig.1). The newly added limitation "substantially non-porous surface" is inherently disclosed due to use of the plastic material in Bassett reference.

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Plastic is a well known substantially non-porous material, commonly known and used in making game boards, and used for playing games by marking with dry-erase markers.

Applicant might argue that Bassett does not expressly indicate a substantially non-porous dry-erasable surface.

Ward teaches a plastic sheet of suitable hardness (5:13-15) for use with erasable marker liquid (5:35-36). In that Ward clearly demonstrates that plastic is a non-porous material and compatible with dry-erase markers. It also teaches that such boards are in a board game environment.

Plastic surfaces are dry-erasable and commonly used and recognized in the art area of board games.

Board game art area is a highly competitive area and using substantially non-porous dry-erase surface such as plastic facilitates using the same board over and over again saving cost, thus making the game less costly.

In order to save money it would have been obvious to use plastic material that are substantially non-porous and compatible to dry-erase markers by using the same board over and over again. One of ordinary skill in art at the time the invention was made would have suggested using plastic material that are substantially non-porous and compatible to dry-erase markers by using the same board over and over again for the purpose of money.

Bassett clearly teaches overlaying plastic cladding (30) upon a substrate (28).

3. Claims 4-7,9, 14-17,19 rejected under 35 U.S.C. 103(a) as obvious over Bassett in view Ward and furthering view of Somerville (4,828,268).

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Bassett and Ward teach all limitations except that they do not expressly teach tiles in honeycomb shape. Somerville teaches tiles in honeycomb shape (Fig.6-7).

While rectangular and square boards are easy to make and store, numerous shapes including as demonstrated by Somerville are known in the art area for the purpose of attracting players who like to play with complicated shapes.

In order to make the game attractive, it would have been obvious to provide boards in the shape of honeycomb.

One of ordinary skill in art at the time the invention was made would have suggested providing boards in honeycomb shape to make the game attractive.

4. Claims 8,18 rejected under 35 U.S.C. 103(a) as being unpatentable over Bassett in view of Ward and Somerville as applied to claim 7 above, and further in view of Grutta (2,972,833).

Bassett, Ward and Somerville teach all limitations except that they do not teach a ball and socket connection for tiles.

Grutta teaches a ball and socket connection (Fig.4).

Board games are popular travel companions. Board pieces that easily disconnected are likely to distract players away from playing as board pieces disassemble due to slightest movement or disturbance.

While some joints are easily disconnected others such as a ball and socket joint keeps the board secured and in one piece.

In order to secure board pieces properly and the shape of the board, it would have been obvious to use a ball and socket joint for the tiles. One of ordinary skill in art at the time

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the invention was made would have suggested using ball and socket means for connecting tiles.

5. Claims 10, 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Bassett in view of Ward and Somerville as applied to claim 5 above, and further in view of Kleva (4,431,386).

Bassett, Ward and Somerville teach all limitations except that they do not teach a magnetic connection for tiles.

Kleva teaches a magnetic connection (37,39).

Board games are popular travel companions. Board pieces that easily disconnected are likely to distract players away from playing as board pieces disassemble due to slightest movement or disturbance.

While some joints are easily disconnected others such as a magnetic joint keeps the board secured and in one piece.

In order to secure board pieces properly and the shape of the board, it would have been obvious to use a magnetic joint for the tiles. One of ordinary skill in art at the time the invention was made would have suggested using magnetic means for connecting tiles.

Response to Arguments

Applicant's arguments filed 11/26/04 have been fully considered but they are not persuasive.

On pages 11-12 of 17, the applicant argues that Bassett does not disclose board pieces or possess a surface upon which one could write with a dry-erase marker that could easily be eraser.

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Examiner takes the position that Bassett board pieces are made out of plastic (2:3) and plastic is widely used with dry-erase markers. Plastic is also a substantially non-porous material. To further support the examiner's position the applicant may note at least the following patents using plastic boards/pieces with dry-erase markers: US 6402144, US 5741561.

Examiner further takes the position that whether Bassett suggests or not the marking of the board, it does not take away the physical quality of the board capable of being marked with dry-erase marker. At the core of Bassett board pieces are plastic pieces and compatible with dry-erase marker. This is well known in the art area of board games.

On pages 13-14 of 17, the applicant argues that manner of combining the references lacking motivation.

Examiner takes the position that the players are likely to mark the board advertently or inadvertently. Plastic is a commonly used material that is durable due to the fact that it can be washed with water to remove marks made with liquid inks. Whether Bassett spells this reason or not, it remains a fact that Bassett board is "substantially non-porous", and could be used with dry-erase marker.

Ward on the other hand clearly demonstrates and supports the capability of a plastic board being used with markers that use ink that dries quickly. Such inks have highly volatile fluids with suspended particles and can be easily erased upon drying (5:40-46). This clearly satisfies applicant's definition of dry-erase marker (page 11).

Further Applicant arguments on pages 15-16 are based on the same reasons as above.

Applicant's position is as explained above.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vishu K Mendiratta
Primary Examiner
Art Unit 3711

VKM
February 10, 2005